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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,450	08/07/2000	Michael A. Brundridge	16356.543 (DC-02404)	3460

27683 7590 05/17/2004  
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DALLAS, TX 75202

EXAMINER

LE, DIEU MINH T

ART UNIT	PAPER NUMBER
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2114

DATE MAILED: 05/17/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/633,450	BRUNDRIDGE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dieu-Minh Le	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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**Part III DETAILED ACTION**

**Specification**

1. Claims 1-12, and 20 are presented for examination.
2. This office Action is in response to the RCE filed 02/26/04.

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-12 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable Crouse et al. (US Patent 5,634,022 hereafter referred to as Crouse) in view of Wookey (US Patent 6,151,683).

As per claim 1:

Crouse substantially teaches the invention. Crouse explicitly teaches:

- a method of updating diagnostic information (i.e., diagnostic analysis [col. 4, line 16], diagnostic function [col. 3, line 6], enabling diagnostic system [col. 2, line 47], performing diagnostic task [col. 3, lines 11-12] [abstract, comprising:
  - detecting information [abstract, fig. 4, col. 6, lines 43 through col. 7, line 10];

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- detecting diagnostic information [abstract, col. 1 lines 10-16]
- updating diagnostic script (i.e., instructions, diagnostic test (i.e., diagnostic script) and data used for rebuilding the computer state [col. 2, lines 22-55 and col.3, lines 40-67]) [col. 4, lines 25-30 and lines 45-48], application (i.e., digital signal processor task and multi-media environment including fax machines, compact disc playback, audio function, voice recognition applications, etc...) [col. 1, lines 23-26, col. 4, lines 61-63] and information in a first computer [col. 4, lines 3-15 and lines 60-62];
- communicating the updated diagnostic script, application and information to a second computer [col. 5, lines 4-7] via a network (i.e., connectivity among host computers and host system processors or computers) [fig. 11, col. 4, lines 3-15];
- cause one of a plurality of diagnostic routines [col. 6, lines 50-54] supported by the machine to be selectable for execution according to the diagnostic information, and to cause another of the diagnostic routines, not supported by the machine, to become not selectable for execution [col. 3, lines 2-15 and col. 4, lines 28-30];

Crouse does not explicitly teach:

- detecting machine information.

However, Crouse does disclose capability of:

- a multi-media computer diagnostic system [abstract, fig. 4, col. 9, lines 53-56] comprising capability of:
  - **probing operation (i.e., detecting machine information) of the diagnostic analysis [col. 4, lines 16-20]**
  - **determining of the diagnostic functions as to cause the signal processor execution [col. 3, lines 5-9];**
  - execution fault isolation or "debugging" computer system [col. 1, lines 19-20];
  - diagnostic instruction (i.e., program routines) used for diagnostic system [col. 2, lines 45-55 and col. 4, lines 31-45];
  - digital signal processor on the host processor (i.e., a computer operating system used to run DSP, etc..) [col. 4, lines 4-30];
  - host processor and resource allocation (i.e., machine information) used to diagnostic the computer system [fig. 11, col. 4, lines 3-15];

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In addition, Wookey explicitly teaches:

- a diagnostic computer system (i.e., updating diagnostic information [col. 1, lines 39-47] [abstract, fig. 1a-1b, col. 1, lines 15-20];

comprising:

- detecting machine information (i.e., operating system information, DNS information, cache information, etc...) [fig. 7B, col. 6, line 28-32];
- a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41].
- extracting system information from diagnostic data and building a component based representation of the computer using the extract system information [abstract];
- first, second computers including memory and CPUs, connected via network communication [fig. 1A-B, col. 3, lines 40-67].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to implement, first, to realize the Crouse's multi-media computer diagnostic system comprising capability of diagnostic instruction (i.e., program routines) used for diagnostic system and more specifically **digital signal processor on the host**

processor and host processor and resource allocation (i.e., machine information) used to diagnostic the computer system as being the machine information as claimed by Applicant. This is because the Crouse does use the computer operating system to function and operate the entire computer applications, such as diagnostic program or debugging program to check, test, validate the computer system; second, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to use **computer machine information (i.e., operating system information, DNS information, cache information, etc...)** as well as extracting system information from diagnostic data features as taught by Wookey in conjunction with the multi-media computer diagnostic system including **probing operation (i.e., detecting machine information)** of the **diagnostic analysis** capabilities as disclosed by Crouse in order to supporting the computer data diagnostic system for network availability, performance throughput, and error free processing within the computer environment therein.

This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so to provide the connectivity among data processor, debugging or diagnostic computer program, memory, networking communication devices, displaying, peripherals of a computer system with



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mechanism to enhance data performance in the computer data processing, more specifically to a diagnostic computer system.

As per claims 2-4:

Crouse substantially teaches the invention. Crouse explicitly teaches:

- a method comprising steps:
- displaying an indicator corresponding to diagnostic routines [col. 2, lines 60-65 and col. 5, lines 47-55];
- a graphical representation of a component corresponding to the diagnostic routines [col. 2, lines 60-65 and col. 4, lines 16-65]
- selecting the indicator [col. 5, lines 47-55];
- plurality of diagnostic routines selected for execution according to diagnostic information [abstract, fig. 4, col. 2, lines 45-65 and col. 4, lines 16-30].

In addition, Wookey explicitly teaches:

- a diagnostic computer system [abstract, fig. 1a-1b, col. 1, lines 15-20];

comprising:

- a computer diagnostic representation used for data monitoring and displaying [fig. 1A-B, col. 2, line 43-55];

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- a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41].
- a graphical representation of a component corresponding to the diagnostic routines [col. 33, lines 9-14].

As per claims 5-6:

Crouse substantially teaches the invention. Crouse explicitly teaches:

- a method comprising steps:
- diagnostic information [abstract, col. 1 lines 10-16]
- plurality of diagnostic routines selected for execution according to diagnostic information [abstract, fig. 4, col. 2, lines 45-65 and col. 4, lines 16-30];

Crouse does not explicitly teach:

- a machine type.

However, Crouse does disclose capability of:

- a multi-media computer diagnostic system [abstract, fig. 4, col. 9, lines 53-56] comprising capability of:
- diagnostic instruction (i.e., program routines) used for diagnostic system [col. 2, lines 45-55 and col. 4, lines 31-45];

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- digital signal processor on the host processor (i.e., a computer operating system used to run DSP, etc..) [col. 4, lines 4-30];
- host processor and resource allocation (i.e., machine information) used to diagnostic the computer system [fig. 11, col. 4, lines 3-15].

In addition, Wookey explicitly teaches:

- a diagnostic computer system [abstract, fig. 1a-1b, col. 1, lines 15-20];

comprising:

- computer machine information (i.e., operating system information, DNS information, cache information, etc...) [fig. 7B, col. 6, line 28-32];
- a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41].
- first, second computers including memory and CPUs, connected via network communication [fig. 1A-B, col. 3, lines 40-67].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to implement the combination of the Crouse's multi-media

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computer diagnostic system comprising capability of diagnostic instruction (i.e., program routines) used for diagnostic system and more specifically **digital signal processor on the host processor and host processor and resource allocation (i.e., machine information)** used to diagnostic the computer system and Wookey's diagnostic computer system comprising **computer machine information (i.e., operating system information, DNS information, cache information, etc...)** for the same reasons set forth as described in claim 1, **supra**.

As per claims 7-12:

Due to the similarity of claims 7-13 to claims 1-6 except for a computer system for diagnostic information within computer system capabilities of a diagnostic routines, diagnostic script, first and second computer, etc... instead of the method of updating diagnostic information comprising diagnostic routines, diagnostic script, first and second computer, etc...; therefore, these claims are also rejected under the same rationale applied against claims 1-6. **In addition, all of the limitations have been noted in the rejection as per claims 1-6. That is:**

Crouse explicitly teaches:

- a processor (i.e., digital processor) [fig. 11, col. 4, lines 3-15];

- a memory coupled to the processor [fig. 11, col. 2, lines 51-57];

- first computer and second computer connected via a network [fig. 11, col. 4, lines 3-15].

In addition, Wookey explicitly teaches:

- a diagnostic computer system [abstract, fig. 1a-1b, col. 1, lines 15-20];

comprising:

- **a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41].**

- first, second computers including memory and CPUs, connected via network communication [fig. 1A-B, col. 3, lines 40-67].

As per claim 20:

Due to the similarity of claim 20 to claims 1-6 and 7-12 except for a computer system for computer system comprising first and second computers including diagnostic information within computer system capabilities of a diagnostic routines, diagnostic script, etc... instead of the method of updating diagnostic information comprising diagnostic routines, diagnostic script, first and second computer, etc...; therefore,

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these claims are also rejected under the same rationale applied against claims 1-6 and 7-12. In addition, all of the limitations have been noted in the rejection as per claims 1-6 and 7-12.

That is:

Crouse explicitly teaches:

- a processor (i.e., digital processor) [fig. 11, col. 4, lines 3-15];
- a memory coupled to the processor [fig. 11, col. 2, lines 51-57];
- first computer and second computer connected via a network [fig. 11, col. 4, lines 3-15].
- comparing diagnostic information [col. 5, lines 21-26].

In addition, Wookey explicitly teaches:

- a diagnostic computer system [abstract, fig. 1a-1b, col. 1, lines 15-20];

comprising:

- a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41].
- first, second computers including memory and CPUs, connected via network communication [fig. 1A-B, col. 3, lines 40-67].
- comparing diagnostic information [col. 9, lines 5-10].

*Response to Applicant's remarks*

Applicant asserts that the references do not teach or suggest updating diagnostic script, application and information between first and second computers using a communication network.

Examiner respectfully transverses Applicant's arguments as follows:

First, both Crouse and Wookey do teach Applicant invention. Crouse discloses a multi-media computer diagnostic via computer host and plurality of processor [fig. 11, col. 4, lines 3-15] Crouse illustrates the diagnosis instructions (i.e., script) execution, which cause the execution of the task to branch to a diagnostic program [abstract]. Crouse further demonstrated the examination, determination, and isolation of malfunction [abstract]. In addition, Wookey emphasizes on diagnostic data of the computer and extracting system information from the diagnostic data and building a component based representation of the computer [abstract]. Wookey further demonstrates the monitoring of computer system using diagnostic data [col. 1, lines 18-20] in a plurality of computers connected via a networking environment [fig. 1A-B, col. 3, lines 40-67]. This is

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clearly shown that both Crouse in combined with Wookey do teach Applicant's diagnostic computer system.

Second, Examiner would like to bring Applicant's attention to 1)Crouse's multi-media computer diagnostic system [abstract, fig. 4, col. 9, lines 53-56] comprising capability of diagnostic instruction (i.e., program routines) used for diagnostic system and more specifically **digital signal processor on the host processor** [col. 4, lines 4-30];and host processor and resource allocation (i.e., machine information) used to diagnostic the computer system [fig. 11, col. 4, lines 3-15] and 2)Wookey's diagnostic computer system [abstract, fig. 1a-1b, col. 1, lines 15-20] comprising **computer machine information (i.e., operating system information, DNS information, cache information, etc...)** [fig. 7B, col. 6, line 28-32] and a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41]. It is clearly shown that the combination of both Crouse and Wookey do demonstrate the detecting, diagnosing, executing the diagnostic information by the computer system (i.e., causing one of a plurality of diagnostic routines supported by a computer to be selectable for execution according to the diagnostic information). It is further obvious to an ordinary skill in the art since both Crouse and Wookey do deal with the computer



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system diagnostic and/or debugging, more specifically a machine information or diagnostic instruction, system configuration, etc... as claimed by Applicant.

**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. A shortened statutory period for response to this action is set to expired THREE (3) months, ZERO days from the date of this letter. Failure to respond within the period for response will cause the application to be abandoned. 35 U.S.C. 133.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (703) 305-9408. The examiner can normally be reached on Monday-Thursday from 8:30 AM to 6:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel, can be reached on (703)305-9713. The fax phone number for this Group is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703)872-9306, (for formal communications  
intended for entry)

**Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal  
Drive, Arlington. VA., Sixth Floor (Receptionist).**



**DIEU-MINH THAI LE  
PRIMARY EXAMINER  
ART UNIT 2114**

DML  
5/12/04